



Public Service Commission

State of North Dakota

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May 14, 2009

Dr. Jay Volk
Environmental Services Supervisor
BNI Coal, Ltd.
2360 35th Ave SW
Center, ND 58530-9499

Dear Dr. Volk:

The Reclamation Division has reviewed BNI Coal's April 17th technical deficiency response and changes to the applications for Bond Release No. 1 to Permit BNCR-8006, Bond Release No. 7 to Permit BNCR-8106, Bond Release No. 1 to Permit BNCR-8202, and Bond Release No. 8 to Permit 37. These applications request final bond release for tracts in Sections 23 and 26, T141N, R84W, at the Center Mine. The following items must be satisfactorily addressed prior to further action on the applications:

Section 26

1. Table 3 in Attachment VI indicates that 58.69 acres of corn were planted and harvested in 2005, but Attachment VIII indicates that 56.64 acres of corn were planted that year. Please review and correct this inconsistency as necessary. (GAW)

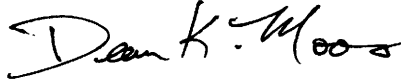
Section 23

2. Item No. 18 requested that sedimentation ponds being retained as developed water resources be shown on a map and to reference the map that shows the locations of the ponds in the narrative in Attachment VI. The April 17th response states that the ponds were added to Attachment V but a new version of this Attachment was not submitted. Please review and address as necessary. (GAW)
3. Attachment VI indicates the Rodney and Vicki Meckle are the surface owners of the SE $\frac{1}{4}$ of Section 23, but the pond maintenance agreement for Pond 23-6 that is included in Attachment XI is signed by Arnold Meyhoff. Please note that Meckle's purchased this tract after Mr. Meyhoff signed the pond maintenance agreement. (GAW)

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Also, Bond Release No. 7 to Permit BNCR-8106 cannot be approved until Revision No. 48 to that permit is approved. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink that reads "Dean K. Moos". The signature is written in a cursive style with a large initial "D".

for James R. Deutsch
Director
Reclamation Division